IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Tr.P(Crl.).No. 48 of 2007()

CC.106/2007 of J.M.F.C.-I,THRISSUR

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PETITIONER: COMPLAINANT:

NARAYANAN, S/O. ATHIYATTU VALAPPIL-
CHANDRAN, AGED 71 YEARS, P.O. KALADY,
PONNANI TALUK, (VIA) EDAPPAL, MALAPPURAM DISTRICT.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: ACCUSED AND STATE:

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1. UNNIKRISHNAN NAIR,
S/O. A.K. KUTTIKRISHNAN MENON, AGED 61 YEARS,
PAVITHRAM, ULLATTUVALAPPIL VEETTIL, P.O. ATHALOOR,
VIA. THAVANNOOR, PONNANI TALUK,MALAPPURAM DISTRICT

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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T.P.(Crl).No. 48 of 2007

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Dated this the 28th day of May, 2007

O R D E R

The petitioner is the complainant and he has filed a complaint alleging the offence punishable under Section 138 of the N.I. Act. In the light of the later decision reported in **Ahammedkutty Haji** v. **State of Kerala** (2007 (1) KLT 68), the court below, before which the complaint was filed, does not have the jurisdiction to try the matter. The petitioner has, in these circumstances, come to this Court for a direction for transfer.

2. After discussions at the Bar, I am of the opinion that the petitioner must follow the course indicated by Mr. Justice K.A. Mohammed Shafi in the decision in **Abdul Azeez Nazeem** v. **Radhakrishnan** (2000 (2) KLT 23). He must claim return of the complaint for presentation before the proper court and present the same before the appropriate court after getting it returned from the wrong court, before which it is filed. All the apprehensions entertained by the petitioner are provided for in the said decision cited supra.

3. This Transfer Petition is in these circumstances, dismissed with the above observations. The petitioner can follow the course suggested in the decision in Abdul Azeez Nazeem (supra).

(R. BASANT)
Judge

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